

Adopt Part Env-C 720 to read as follows:

## **PART Env-C 720 PURPOSE AND APPLICABILITY OF INSTREAM FLOW RULES**

Statutory Authority: RSA 483:9-c,I; RSA 483:11,IV

Env-C 720.01 Purpose. The purpose of Parts Env-C 720 through Env-C 724 is to implement procedures for instream flows on designated rivers to maintain water for instream public uses and to protect the resources for which the river or segment is designated, and to implement procedures for the commissioner to recommend required minimum releases at hydroelectric energy facilities licensed by the Federal Energy Regulatory Commission.

Env-C 720.02 Applicability.

(a) The rules in Parts Env-C 720 through Env-C 724 shall apply to water users required to be registered with the department under RSA 482:3 if the water use is:

- (1) A consumptive use of water of a designated river;
- (2) A consumptive use of groundwater or surface water within 250 feet of the normal high water mark of a designated river; or
- (3) A hydroelectric energy facility on a designated river, except as provided in (b) and (c) below, unless the water is used to power a turbine that:
  - a. Is located in the dam structure itself such that there is no diversion of the water away from the natural stream bed; and
  - b. Is operated in a run-of-river mode such that there is no storage of water for release at a later time.

(b) These rules shall not apply to a hydroelectric energy facility on a designated river licensed by the Federal Energy Regulatory Commission for the term of the license in effect at the time these rules are adopted, but shall apply upon the expiration of the license.

(c) These rules shall not apply to a hydroelectric energy facility on a designated river for which a flow requirement has been established as a term or condition of being granted an exemption from the Federal Energy Regulatory Commission licensing process prior to the adoption of these rules, for a period of 25 years from the date the exemption was initially granted or until the facility's existing power purchase contract expires, whichever is earlier.

Env-C 720.02 Consumptive Use.

(a) Use of water shall be deemed to be a consumptive use if:

- (1) The return water flow is less than that withdrawn;
- (2) The water is returned to a location greater than 500 feet from the withdrawal location; or

(3) The water is returned at a different time from the withdrawal.

(b) For a water use which returns some but not all of the withdrawn water, the consumptive use shall be the difference between the water withdrawn and the measured water returned that meets the requirements of (a) above.

(c) The use of water for hydroelectric energy production shall not be deemed a consumptive use.

## **PART Env-C 721 DEFINITIONS FOR INSTREAM FLOW RULES**

Env-C 721.01 "Affected water users" means registered water users who are subject to these rules.

Env-C 721.03 "Commissioner" means the commissioner of the department of environmental services.

Env-C 721.04 "Daily withdrawal information" means the volume of water withdrawn on each day of a given season, as reported to the department.

Env-C 721.05 "Department" means the department of environmental services.

Env-C 721.06 "Designated river" means any river or river segment that is designated under RSA 483.

Env-C 721.07 "Governing body" means the board of selectmen in a town, the board of mayor and aldermen in a city or the council in a city or town with a council, or when used to refer to unincorporated towns or unorganized places, or both, the county commissioners.

Env-C 721.08 "LRMAC" means a local rivers management advisory committee established pursuant to RSA 483:8-a.

Env-C 721.09 "Public water supplier" means a supplier of water as defined in RSA 485:1-a, XVI.

Env-C 721.10 "Q60" means the average daily river flow which is equaled or exceeded 60 percent of the time.

Env-C 721.11 "Q80" means the average daily river flow which is equaled or exceeded 80 percent of the time.

Env-C 721.12 "Q90" means the average daily river flow which is equaled or exceeded 90 percent of the time.

Env-C 721.13 "Registered Water User" means any person or entity subject to Env-Wr 701 based on withdrawals.

Env-C 721.14 "RMAC" means the rivers management advisory committee established pursuant to RSA 483:8.

Env-C 721.15 "Watershed" means one of the 110 watersheds identified in the document NHDES-COM-MAP-1.

## **PART Env-C 722 PROTECTION OF INSTREAM FLOWS**

### **Env-C 722.01 Maintenance of Instream Flows.**

(a) Instream flows shall be maintained at hydroelectric energy facilities subject to these rules through a required minimum release, established pursuant to Env-C 723, that applies to the amount of water released instantaneously to the natural stream bed just below the dam.

(b) Consumptive use by affected water users shall be limited through the process described in Env-C 723 when flow at the downstream watershed boundary is at or below the trigger flows.

(c) The flow in a designated river that can be withdrawn by the total consumptive use of affected water users in any watershed shall be based on the following trigger flows, established pursuant to Env-C 723:

- (1) A phase I flow;
- (2) A phase II flow; and
- (3) A phase III flow.

(d) For purposes of RSA 483:9-c, IV, which allows the instream flow to fall below the protected level due to natural causes or when public health and safety are affected, the commissioner has determined that a public water supply emergency exists which affects public health and safety in the following circumstances:

- (1) When the withdrawal is necessary for drinking; or
- (2) When the withdrawal is necessary to provide fire protection; or
- (3) When flow is required to be reduced, diverted or dammed in order to perform repairs required to protect public safety pursuant to RSA 482.

(e) The commissioner shall allow the public water supplier(s) to withdraw up to 75 gallons of water per person per day multiplied by the population served to provide water for drinking when an emergency exists under (d)(1) above.

(f) The commissioner shall allow the person(s) responsible for providing fire protection to withdraw as much water as is necessary to provide fire protection when an emergency exists under (d)(2) above.

(g) The commissioner shall allow the person(s) responsible for maintaining the dam under RSA 482 to reduce, divert or dam as much water as is necessary to allow the repairs to be performed when an emergency exists under (d)(3) above.

### **Env-C 722.02 Water Use Limitation/Cessation Orders.**

(a) Determinations of the need to limit or cease consumptive water use shall be made separately for each watershed through which the designated river flows.

(b) Subject to Env-C 722.03, when daily average flow at the downstream watershed boundary has been less than or equal to the phase I level for 7 consecutive days, the commissioner shall issue an order to all affected water users in that watershed requiring them to limit consumption so that the instantaneous total watershed-wide consumptive use by all affected water users shall be not more than 4 percent of the phase I flow.

(c) Subject to Env-C 722.03, when daily average flow at the downstream watershed boundary has been less than or equal to the phase II level for 7 consecutive days, the commissioner shall issue an order to all affected water users in that watershed requiring them to limit consumption so that the instantaneous total watershed-wide consumptive use by all affected water users shall be not more than 2 percent of the phase II flow.

(d) Subject to Env-C 722.01(d) through (g), Env-C 722.03, and (g) below, when daily average flows have been less than or equal to the phase III level for 7 consecutive days, the commissioner shall issue an order to all affected water users in that watershed requiring them to cease all consumptive uses.

(e) The commissioner shall issue an order to cease withdrawals whenever the new hampshire fish and game department certifies that, while flows in a designated river have not been less than the phase III level for 7 consecutive days, the flows are such that significant adverse impacts will occur to aquatic life or habitat unless withdrawals are ceased.

(f) The availability of water for consumptive use by each affected water user pursuant to (b) or (c) above shall be determined in accordance with Env-C 722.06.

(g) For every period in which an order is in effect, affected water users shall submit daily water use records for the entire period of the order, within 15 days of the date the order ceases.

#### Env-C 722.03 Exceptions to Issuance of Orders.

(a) If the total instantaneous watershed-wide consumptive use attributed to all affected water users on the designated river in the impacted watershed is less than 2 percent of the applicable trigger flow, Env-C 722.02 (b) and (c) shall not apply.

(b) Affected water users that are hydroelectric energy facilities shall maintain the required minimum release at all times unless inflow is less than the required minimum release and shall not be subject to the advisories and orders issued pursuant to Env-C 722.02.

(c) When inflow is less than the required minimum release, affected water users that are hydroelectric energy facilities shall maintain outflow equal to inflow.

#### Env-C 722.04 Duration of Orders.

(a) Subject to (b) and (c) below, the orders issued by the commissioner to implement the phased reductions described above shall remain in effect for 10 consecutive days.

(b) If, based on available hydrologic data, the commissioner determines that flows are likely to remain below the trigger flow for longer than 10 days, the commissioner shall extend the order for an additional 10 days by notifying affected water users as in Env-C 722.05.

(c) If, based on available hydrologic data, the commissioner determines that flows will rise above and exceed the trigger flow for an extended period of time, the commissioner shall remove the order prior to the end of the 10-day period.

Env-C 722.05 Notification for Orders and Need for Water Conservation.

(a) The commissioner shall notify all affected water users in the affected watershed(s) of a limitation/cessation order within 1 day of issuance, by telephone, electronic mail, or fax.

(b) Whenever the commissioner issues an order to affected water users pursuant to Env-C 722.02, he shall also issue:

(1) A press release in a paper that serves each watershed affected by the order notifying the general public about the need for water conservation; and

(2) Notification by mail, fax, or electronic mail to all other registered water users in the watershed affected by the order requesting implementation of voluntary water conservation measures; and

(3) Notification by mail, fax, or electronic mail to all those individuals and entities listed under Env-C 723.05 (c).

Env-C 722.06 Availability of Water.

(a) In order to determine the flow available to each affected water user, the department shall first determine for each season identified in Env-C 723.02:

(1) The total consumptive use in the watershed by all affected water users under normal or non-conservation conditions ( $T_n$ ) as determined pursuant to Env-C 722.07;

(2) For each affected water user, the consumptive use by the user under normal or non-conservation conditions ( $W_{nx}$ , where x denotes separate users) as determined pursuant to Env-C 722.07; and

(3) The proportion of the total consumptive use by affected water users in the watershed attributable to each affected water user ( $P_{nx}$ ), calculated by dividing  $W_{nx}$  by  $T_n$ , as shown below:

$$P_{nx} = W_{nx} / T_n.$$

(b) The flow available for each affected water user shall be the proportion of the total seasonal consumptive use in the watershed attributable to the affected water user ( $P_{nx}$ ) times the flow available for consumptive use. Thus, for phase I reductions each affected water user (x) may withdraw up to ( $P_{nx}$ ) times (0.04) times (phase I flow), and for phase II reductions each affected water user may withdraw up to ( $P_{nx}$ ) times (0.02) times (phase II flow).

(c) The flow available for each affected water user shall be calculated by the department every two years, beginning 180 days from the effective date of these rules, or whenever there is a change in affected water users registered under Env-Wr 701.

Env-C 722.07 Determination of Non-Conservation Consumptive Use.

(a) The consumptive use by all affected water users in a given watershed under normal or non-conservation conditions shall be the sum of the consumptive use determined pursuant to (b) and (c) below for the affected water users in that watershed.

(b) The consumptive use under normal or non-conservation conditions for an affected water user who has reported water withdrawals for at least one year prior to the effective date of these rules shall be determined as follows:

(1) Subject to (2) through (4) below, the consumptive use for a given season shall be the annual average of that season's total withdrawals as reported to the department for the period of record for that user, divided by the number of days in that season.

(2) For users that provide complete daily withdrawal information to the department, the amount of consumptive use for a given season shall be the annual average of that season's total withdrawals, as reported to the department for the period of record for that user, divided by the number of days of actual use.

(3) If for any month during the period of record the user did not report the amount of water withdrawn, the lowest reported amount for that month in the period of record shall be used for the month for which actual data is not available.

(4) The period of record for consumptive use calculation shall be the entire period of record or five years, whichever is less.

(c) The amount of consumptive use under normal or non-conservation conditions for an affected water user who has reported water withdrawals for one year or less shall be estimated by the department based on the following:

(1) Any reported data for that season, together with consideration of whether consumptive use was reduced or ceased during the reporting period, for example in response to an order issued pursuant to Env-C 722.02;

(2) The user's estimate of its average withdrawal for that season;

(3) The number of days of actual withdrawal for that season or the number of days in a season not covered by reported daily withdrawal information;

(4) The user's type of use and other operational information, including whether the use is weather-dependent;

(5) Amounts withdrawn by other users who use water for the same purposes; and

(6) Any other information that is relevant to making the determination.

Env-C 722.08 Exemption from Limitation Orders Based on Water Conservation.

(a) Any affected water user, other than a public water supplier, may request an exemption from water use limitation orders in accordance with this section.

(b) To request the exemption, the water user shall submit the following information to the department:

- (1) The name, address and telephone number of the water user, and if the water user is not an individual, the name and telephone number of an individual who can be contacted relative to the request;
- (2) The location of the facility that is subject to reduction orders;
- (3) A complete description of all water use at the facility;
- (4) A complete description of the conservation program that the water user has implemented for the facility, including the date the program was implemented and the level of conservation achieved as a result of the program; and
- (5) A complete description of how the water use at the facility is minimized through design and/or operation features.
- (6) A water use management plan which addresses phased reduction in water use corresponding to the trigger flows identified in Env-C 722.01(c) as determined pursuant to Env-C 723.

(c) The department shall exempt the facility from the requirements to limit water use under Env-C 722.02(b) and/or (c) based on implementation of a water conservation program if the department determines that:

- (1) The conservation program addresses all water use at the facility, either by identifying how the use has been limited or eliminated or by explaining why it is not practical to reduce or eliminate the use; and
- (2) The conservation program limits the consumptive use of water from the designated river by at least as much as the limits required under Env-C 722.02 (b) and/or (c), as calculated pursuant to Env-C 722.06; and
- (3) The measures are permanent in nature and are not related to reduced production or services provided by the facility.

(d) The exemption shall remain in effect for five years, subject to Env-C 722.10.

Env-C 722.9 Exemption from Limitation Orders for Public Water Suppliers.

(a) A public water supplier may request an exemption from water use limitation orders in accordance with this section.

(b) To request the exemption, the public water supplier shall submit the following

information to the department:

- (1) The name, address and telephone number of the public water supplier, and the name and telephone number of an individual representing the public water supplier who can be contacted relative to the request;
- (2) The location of the public water supply that is subject to reduction orders;
- (3) A water conservation plan, as specified in (c) below, that will be implemented by the public water supplier;
- (4) A schedule for implementation of the water conservation plan; and
- (5) Information pertaining to the approval, if necessary, of the provisions of the plan by the New Hampshire public utilities commission or the local governing body of the public water supplier, as applicable.

(c) The plan shall identify the measures that will be implemented or required by the public water supplier to reduce water use by at least as much as the reductions that would be required under Env-C 722.02(c) and/or (d), respectively, including:

- (1) Customer metering;
- (2) Leak detection and repairs;
- (3) Requiring low-flow plumbing fixtures and/or flow restricting devices;
- (4) Restricting non-essential uses such as watering lawns, washing cars, and filling swimming pools;
- (5) Encouraging industrial reuse and recycling;
- (6) Adopting a water conservation rate structure which can include surcharge penalties;
- (7) Conducting or requiring residential, commercial, and industrial water audits;
- (8) Public education;
- (9) Any other measure determined by the public water supplier to be cost-effective.

(d) The plan may incorporate phased reduction flow management trigger flows to initiate the various components of the plan. Such trigger flows shall correspond to the trigger flows identified in Env-C 722.01(c) as determined pursuant to Env-C 723.

(e) The department shall exempt the facility from the requirements to limit water use under Env-C 722.02(b) and/or (c) based on implementation of a water conservation program if the department determines that:

- (1) The water conservation plan meets the requirements of (b) through (d) above;



- (2) The conservation program limits the amount of water withdrawn from the designated river by at least as much as the limits required under Env-C 722.02 (c) and/or (d), respectively, as calculated pursuant to Env-C 722.06; and
- (3) The measures are permanent in nature.
- (f) The exemption shall remain in effect for five years, subject to Env-C 722.10.
- (g) At 4 years from the date the first trigger flow is established for a designated river, the department shall review the information reported under Env-C 722.10(f)(1) by all users exempted under Env-C 722.9 regarding the efforts made to implement water conservation plans and the effectiveness of the plans, and shall consider the need to amend Env-C 722.9 to lessen the water use reductions necessary to retain an exemption under Env-C 722.9. Reduction levels may be lessened only if the department determines that:
  - (1) Such lessening will not adversely affect the resources for which the river or segment was designated;
  - (2) The public water suppliers exempted under Env-C 722.10 have made good faith substantial efforts to achieve the necessary water use reductions; and
  - (3) Achievement of the necessary water use reductions is not reasonably feasible as a result of circumstances beyond the control of the public water suppliers.
- (h) If the department so determines that the water use reductions necessary to retain the Env-C 722.9 exemption need to be lessened, the department shall initiate rulemaking within one year of beginning the review. Nothing herein shall prevent the department from otherwise initiating rulemaking to amend all or any portion of Env-C 720.

Env-C 722.10 Renewal of Exemptions.

- (a) Affected water users receiving an exemption under Env-C 722.08 or Env-C 722.09 shall report water use to the department as required by Env-Wr 701, and shall report annually to the department on the effectiveness of implementation of the water conservation plan in reducing water use by at least as much as the reductions that would have been required under Env-C 722.02(c) and/or (d), respectively. Failure to meet either or both of these reporting requirements shall nullify the exemption, resulting in the affected user being subject to orders issued under Env-C 722.02 (b) and/or (c).
- (b) The department shall review the justification for the exemption at the end of the 5 year period. This review shall be based on an analysis of the water use reports and annual reports on effectiveness of implementation of the water conservation plan submitted to the department by the water user. As a result of the review, the department shall:
  - (1) Renew the exemption for an additional five years if the review shows that implementation of the water conservation plan has been effective in reducing water use by at least as much as the reductions that would have been required under Env-C 722.02 (b) and/or (c), respectively; or
  - (2) Not renew the exemption if the review shows that implementation of the water

conservation plan has not been effective in reducing water use by at least as much as the reductions that would have been required under Env-C 722.02 (b) and/or (c), respectively.

(c) If the exemption is not renewed, the water user shall be subject to reduction orders issued pursuant to Env-C 722.02 until such time as the water user can demonstrate effectiveness of implementation of a water conservation program for at least 2 years, at which time the water user may again request an exemption from the reduction orders in accordance with this section.

## **PART Env-C 723 PROCESS FOR TRIGGER FLOW DETERMINATION**

### **Env-C 723.01 Schedule for Establishing Trigger Flows.**

(a) For any designated river as of the effective date of these rules, the department shall issue notice of a hearing in accordance with Env-Ws 723.05 concerning the trigger flows and required minimum releases proposed pursuant to this part within 180 days of the effective date of these rules.

(b) For any river or river segment that is designated pursuant to RSA 483 after the effective date of these rules, the department shall provide notice in accordance with Env-Ws 723.05 concerning the trigger flows and required minimum releases proposed pursuant to this part within 180 days of the effective date of the designation.

### **Env-C 723.02 Seasonal Trigger Flows.**

(a) In recognition that there is a seasonal variation in flows within the state, as well as a variation within those seasons from north to south, phase I, phase II, phase III trigger flows shall be based on seasons identified as follows:

- (1) Summer shall comprise June, July, August, September, and October;
- (2) Autumn shall comprise November and December;
- (3) Winter/northern shall comprise January, February and March;
- (4) Winter/southern shall comprise January and February;
- (5) Spring/northern shall comprise April and May; and
- (6) Spring/southern shall comprise March, April and May.

(b) The department has designated a river or river segment as "northern" if the spring runoff event typically begins in April and as "southern" if the spring runoff event typically begins in March, as identified in document # NHDES-COM-MAP-XX.

### **Env-C 723.03 Trigger Flow Determinations.**

(a) Trigger flows shall be determined for designated rivers using the watersheds identified in document # NHDES-COM-MAP-1.

(b) Trigger flows shall be established for each watershed through which the designated river flows at the point of lowest altitude in the watershed.

(c) The required minimum release(s) shall be established for each hydroelectric energy facility on a designated river.

Env-C 723.04 Proposed Trigger Flows and Required Minimum Releases.

(a) The commissioner has determined, subject to additional information received during public comment, that the following proposed trigger flows and required minimum releases are sufficient to maintain water for instream public uses and to protect the resources for which the river or segment is designated:

(1) The proposed phase I flow shall be the seasonal Q60.

(2) The proposed phase II flow shall be the seasonal Q80.

(3) The proposed phase III flow shall be the seasonal Q90.

(4) The proposed required minimum release(s) from a hydroelectric energy facility shall be determined by applying the Interim Regional Policy for New England Stream Flow Recommendations, U.S. Fish and Wildlife Service, February 13, 1981.

(b) The methodology used to determine a proposed trigger flow shall be the same whether a river is designated as community, rural-community, rural or natural.

(c) The proposed trigger flows and required minimum releases shall be set forth in writing and shall be made available pursuant to Env-C 723.05 for public comment.

Env-C 723.05 Hearing and Opportunity for Public Comment.

(a) For each designated river or segment, the department, in cooperation with the LRMAC, shall hold a public hearing in a community along the designated river to receive comment on the following factors as they pertain to the proposed trigger flows and required minimum releases:

(1) All factors identified in RSA 483, including considerations identified in RSA 483:1, RSA 483:6, IV(a), and RSA 483:9-c;

(2) Flows established pursuant to existing federal licensing processes or state contracts;

(3) Whether there are wastewater discharges that require a certain instream flow for permit compliance and/or maintaining water quality standards; and

(4) Whether the river contains flow-regulating structures such as dams, and if so, how such structures are used to manage flow; and

- (5) All available information relevant to determining what flows are likely to stress existing aquatic life and/or habitat beyond the ability of the natural system to adjust to changing flows without permanent adverse impacts.
  - (6) Stream gaging data and watershed characteristics.
- (b) At least 30 days before the hearing, the department shall issue a notice of the hearing in a newspaper of local circulation.
- (c) At least 30 days before the hearing, the department shall send written notice of the public hearing to and solicit comment from the following:
- (1) Affected water users in the watershed;
  - (2) Federal energy regulatory commission, for each designated river with a licensed hydropower site;
  - (3) LRMAC members for the designated river;
  - (4) The governing body of each municipality through or past which the designated river flows;
  - (5) National park service;
  - (6) New hampshire department of justice;
  - (7) New hampshire department of transportation;
  - (8) Public utilities commission;
  - (9) RMAC members;
  - (10) The governor of any state which shares a designated river;
  - (11) U.S. environmental protection agency;
  - (12) U.S. fish and wildlife service;
  - (13) U.S. forest service, for each designated river inside the white mountain national forest; and
  - (14) U.S. geological survey.
- (d) At the public hearing, the department shall specify a comment period which shall close at least 30 days after the hearing date, during which time the department will receive written comments on the factors listed in Env-C 723.05 (a) as they pertain to the proposed trigger flows and required minimum releases.

Env-C 723.06 Establishment of Trigger Flows.

(a) Subject to (d) below, within 60 days of the close of the public comment period, the commissioner shall consider all of the comments and information received during the public comment period, and shall issue a decision establishing the trigger flows and required minimum releases for the designated river.

(b) The commissioner's decision shall:

- (1) Be in writing;
- (2) State the basis for the established flow(s);
- (3) Include the assessment required by RSA 483:9-c, III; and
- (4) Include a summary of comments received and an explanation of how the comments affected the established flows.

(c) The department shall publicize the decision by sending written notice to:

- (1) All persons identified in Env-C 723.05(b); and
- (2) Any person who submitted written comments on the proposed flows and who specifically requested to directly receive a copy of the notice of the established flows.

Env-C 723.07 Change to a Trigger Flow or Required Minimum Release.

(a) A person aggrieved by a decision of the commissioner made pursuant to Env-C 723.06 or a person who wishes to request a change in a trigger flow or required minimum release changed may file a petition to the commissioner for reconsideration of the decision.

(b) If the petition is filed within 30 days of the date the decision is issued, the implementation of the decision will be stayed until the commissioner has acted on the petition, in accordance with RSA 483:9-c, VI.

(c) The petition shall be in writing and shall include the following:

- (1) The name, address and daytime telephone number of the person requesting the reconsideration and, if the requestor is other than an individual, the name of an individual who can be contacted on behalf of the organization requesting the reconsideration;
- (2) The specific change being sought in a trigger flow or required minimum release, either in the quantity of flow, or in the method of determining the flow.
- (3) An explanation of how the flow that the commissioner established will adversely affect one or more of the resources for which a particular river or segment was designated by the general court under RSA 483, in addition to the factors identified in RSA 483:1, RSA 483:6, IV(a), and RSA 483:9-c, together with supporting evidence and data; and
- (4) If applicable, the specific error(s) committed by the commissioner in evaluating the

factors identified pursuant to (2) and (3) above.

(5) All data not available or considered at the time the protected instream flow was set.

(d) Within 30 days of receiving the request, the commissioner shall decide whether to:

(1) Deny the request and affirm the established trigger flow or required minimum release; or

(2) Grant the request and reconsider the trigger flow or required minimum release.

(e) If the commissioner believes that an oral hearing would facilitate making a decision, the commissioner shall schedule an adjudicatory hearing and shall notify the petitioner of the date, time and place of the hearing. Any hearing so scheduled shall be conducted in accordance with RSA 541-A and Env-C 200.

(f) If the commissioner denies the request, the commissioner shall notify the petitioner in writing of the denial and shall specifically identify the reason(s) for the denial.

(g) If the commissioner grants the request, the commissioner shall notify the petitioner in writing that the established trigger flow or required minimum release will be reconsidered and shall initiate action to receive comment on the proposed new trigger flow or required minimum release by the process described in Env-C 723.05.

(h) As specified in RSA 483:9-c, VI, the commissioner's decision on the request may be appealed in accordance with RSA 541.

(i) The commissioner shall initiate action to change a trigger flow or required minimum release by the process described in Env-C 723.05 in response to changed conditions in the watershed that warrant re-evaluation of the flows.